

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)

WAIKOLOA SANITARY SEWER)
COMPANY, INC., dba)
WEST HAWAII SEWER COMPANY)

DOCKET NO. 05-0329

For Expedited Review and Approval)
to Increase Rates.)
_____)

PROPOSED DECISION AND ORDER NO. 23688

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DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

Filed October 1, 2007
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Bonnie K. Kane
for Chief Clerk of the Commission

for A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.

Bonnie K. Kane

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Exhibit A

BEFORE THE PUBLIC UTILITIES COMMISSION
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) WAIKOLOA SANITARY SEWER
) COMPANY, INC., dba
) WEST HAWAII SEWER COMPANY
)

Docket No. 05-0329

For Expedited Review and Approval)
to Increase Rates.)

Proposed Decision
and Order No. 23688

PROPOSED DECISION AND ORDER

The commission issues this Proposed Decision and Order, as mandated by Act 168, Session Laws of Hawaii 2004 ("Act 168"), codified at Hawaii Revised Statutes ("HRS") § 269-16(f), and in response to the Application of WAIKOLOA SANITARY SEWER COMPANY, INC., dba WEST HAWAII SEWER COMPANY ("West Hawaii Sewer" or "WHSC"), filed on December 29, 2005.¹ The commission approves a general rate increase of \$277,439, or 42.1 percent over revenues at present rates for West Hawaii Sewer, based on a total revenue requirement of \$937,052 for the test year. In so doing, the commission authorizes an increase in West Hawaii Sewer's monthly standby charge from \$19.94 per equivalent residential unit to \$36.73 per equivalent residential unit, effective October 15, 2007.

¹West Hawaii Sewer's Application, Verification, Exhibits 1-9, and Certificate of Service, filed on December 29, 2005 (collectively, the "Application"). West Hawaii Sewer's Exhibits will be referenced as "West Hawaii Sewer Exhibit" or "WHSC Exhibit."

I.

Introduction

A.

West Hawaii Sewer

West Hawaii Sewer, a Hawaii corporation established in 1970, is a public utility that owns, administers, and operates a wastewater collection and treatment system that services the residential, multi-family, commercial, and public authority customers in the greater Waikoloa Village area on the island of Hawaii. By Decision and Order No. 8201, filed on December 19, 1984, in Docket Nos. 5107 and 5108 (consolidated), the commission granted West Hawaii Sewer its Certificate of Public Convenience and Necessity ("CPCN"). By Decision and Order No. 10691, filed on July 5, 1990, in Docket No. 6700, the commission modified West Hawaii Sewer's service territory. West Hawaii Sewer's annual gross revenues are less than \$2,000,000.

West Hawaii Sewer is affiliated with Waikoloa Resorts Utilities, Inc., dba West Hawaii Utility Company ("WHUC") and Waikoloa Water Company, Inc., dba West Hawaii Water Company ("WHWC"). WHUC provides water service and West Hawaii Sewer provides water and wastewater service to the Waikoloa Village area. In response to CA-IR-1b, West Hawaii Sewer states that the service areas for WHWC and West Hawaii Sewer differ although both utilities provide a utility service to the Waikoloa Village area. Furthermore, not all occupants of the real estate developments in Waikoloa Village who receive water service from WHWC receive wastewater treatment service from West Hawaii Sewer. The reason

is because some of the real estate developments have a septic tank or cesspool system to collect their wastewater and are thus not connected to West Hawaii Sewer's wastewater treatment system.

B.

West Hawaii Sewer's New Project

Since West Hawaii Sewer's current rates were approved in 2002,² the only significant new project added to the sewer system was 17th Fairway Villas, which added 27 units to the A-Plant sewer system in 2005. However, based on inquiries and applications received, West Hawaii Sewer will be adding over 2,500 additional customers from 2007 through 2012, with the bulk of the development occurring from 2008 through 2010. This increase is anticipated to be primarily generated from a County of Hawaii project for 1,200 units and Castle and Cooke developments of 752 units.

As a result of these new developments in West Hawaii Sewer's service area, wastewater treatment demands are expected to increase from a current daily average of approximately 268,000 gallons per day to over 600,000 gallons per day in 2008.

Investment in utility plant since the previous rate case has been primarily in operating equipment. However, in anticipation of the expected increased demands on West Hawaii Sewer facilities, an expansion of the A-Plant treatment facility

²See Decision and Order No. 19223, filed on February 27, 2002, in Docket No. 00-0440 ("Decision and Order No. 19223").

is scheduled for completion in 2008. The design phase of this expansion is currently scheduled for 2006.

II.

Background

A.

Procedural Background

On December 29, 2005, West Hawaii Sewer filed its Application seeking the commission's approval to increase its: (1) monthly standby charge; and (2) consumption charge per thousand gallons of water usage.³

On March 8, 2006, the commission held a public hearing on West Hawaii Sewer's Application, at the Waimea Civic Center, pursuant to HRS §§ 269-12(c) and 269-16(f)(2).

³The Application was filed on the same day that the Hawaii Supreme Court issued its opinion reversing Decision and Order No. 19223 and Order No. 19294, filed on April 10, 2002, in Docket No. 00-0440. See In re Waikoloa Sanitary Sewer Company, Inc., 109 Hawai'i 263, 125 P.3d 484 (Haw. 2006).

West Hawaii Sewer served copies of its Application upon the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate" or "CA") (collectively with West Hawaii Sewer, the "Parties"). The Consumer Advocate did not object to the completeness of West Hawaii Sewer's Application. See Consumer Advocate's Statement of Position Regarding Completeness of Application, filed on January 18, 2006. Hence, the filing date of West Hawaii Sewer's complete Application is December 29, 2005, consistent with HRS §§ 269-16(d) and (f)(3).

On May 12, 2006, the Consumer Advocate filed its direct testimonies and exhibits, in lieu of a position statement.⁴ On May 26, 2006, West Hawaii Sewer filed its rebuttal position statement and exhibits, supported by the declaration of its Utilities Accounting Manager.⁵

On October 27, 2006, in response to a letter from West Hawaii Sewer's letter dated October 23, 2006, the commission informed West Hawaii Sewer that "if [it] would like to seek interim rates in Docket No. 05-0329, it should . . . file a Motion for Interim Rates, supported by a Statement of Probable Entitlement, along with any and all supporting exhibits."⁶

⁴Consumer Advocate's Direct Testimony, Exhibits and Supporting Workpapers, filed on May 12, 2006 (collectively, "Consumer Advocate's Direct Testimony"). Included in the Consumer Advocate's Direct Testimony are the Direct Testimony of Cheryl S. Kikuta ("CA-T-1"), Exhibits 100 through 114 ("CA-100" through "CA-114"), and Workpapers 109, 111, and 113 ("CA-WP-109," "CA-WP-111," and "CA-WP-113").

⁵Waikoloa Sanitary Sewer Company, Inc., dba, West Hawaii Sewer Company's Statement of Position; Declaration of Richard Terminello; Exhibits 10 to 16, filed on May 26, 2006 (collectively, "West Hawaii Sewer's Rebuttal"). West Hawaii Sewer used continuous numbering for its exhibits (Exhibits 1 through 9 are filed with the Application, and Exhibits 10 through 16 are filed with West Hawaii Sewer's Rebuttal).

⁶Commission counsel's letter to Bruce D. Voss, Esq., dated October 27, 2006.

On November 8, 2006, West Hawaii Sewer filed its Statement of Probable Entitlement.⁷ On November 28, 2006, the Consumer Advocate filed its Statement of Probable Entitlement.⁸

B.

Public Hearing Process

The commission's Notice of Public Hearing was published statewide in various newspapers, in accordance with HRS §§ 1-28.5

⁷See Waikoloa Sanitary Sewer Company, Inc., dba West Hawaii Sewer Company's Statement of Probable Entitlement to Interim Rate Increase Pursuant to [HRS] § 269-16(d); Exhibits 13-16; Certification of Service, filed on November 8, 2006 ("West Hawaii Sewer's Statement of Probable Entitlement"). West Hawaii Sewer declined to follow the instructions provided by the commission in its letter dated October 27, 2006. Namely, West Hawaii Sewer failed to file a motion, and failed to provide the information the commission requested in order to develop the evidentiary record before it.

⁸See Division of Consumer Advocacy's Statement of Probable Entitlement, filed on November 28, 2006 ("Consumer Advocate's Statement of Probable Entitlement"). Although HRS § 269-16(d) provides that "if the commission has not issued its final decision on a public utility's rate application within the nine-month period stated in this section, the commission, within one month after the expiration of the nine-month period, shall render an interim decision allowing the increase in rates, fares and charges, if any, to which the commission, based on the evidentiary record before it, believes the public utility is probably entitled," HRS § 269-16(d) presumes that the commission has quorum to issue an order and that the evidentiary record has sufficient information to support the granting of interim rates. Moreover, HRS § 269-16(d) does not require the commission to issue an order regarding interim rates unless the commission believes that the utility is probably entitled to an increase in interim rates. Significantly, in addition to the above, the determination of probable entitlement in this docket requires consideration of the authorized rates likely or actually established in Docket No. 00-0440, as well as consideration of the prudence of issuing interim rates in light of the possibility or certainty that a refund will be required in Docket No. 00-0440.

and 269-12(c).⁹ On February 14, 2006, West Hawaii Sewer notified its ratepayers by United States ("U.S.") mail of the upcoming public hearing ("West Hawaii Sewer's Notice"), in compliance with HRS § 269-12(c).¹⁰ West Hawaii Sewer's Notice stated that West Hawaii Sewer is seeking commission approval of a general rate increase of approximately \$353,669, or approximately 46.7 percent over total revenues at present rates.

At the public hearing, counsel for West Hawaii Sewer provided oral comments, and the Consumer Advocate provided oral and written comments. In addition, two ratepayers provided oral comments. The issues raised by the ratepayers were, generally, as follows: (1) a 46 or 46.7 percent increase is "a lot over four years;" (2) West Hawaii Sewer charges fifty percent of ratepayers' water usage, which is a "guestimation" because there is no meter to measure reclamation services; (3) a 46.7 percent increase is excessive given that there are two thousand new homes being built; and (4) there would have possibly been greater public hearing turnout if the hearing were held in Waikoloa.

Counsel for West Hawaii Sewer, as well as West Hawaii Sewer's development manager, responded to the comments by the ratepayers. With respect to the 46.7 percent increase, West Hawaii Sewer offered to provide detailed financials to any member of the community that wishes to see them. With respect to

⁹Specifically, the commission's Notice of Public Hearing was published on February 15, 20, 27, and March 6, 2006, in The Garden Island, Hawaii-Tribune Herald, Honolulu Star-Bulletin, The Maui News, and West Hawaii Today.

¹⁰See West Hawaii Sewer's letter, dated March 2, 2006, with enclosure.

the rate structure being based on a percentage of water usage, West Hawaii Sewer explained that it is "a common practice with water and sewer systems" because it is not possible to effectively meter sewer material and the use of two separate meters would result in even higher sewer charges. With respect to the additional home units, West Hawaii Sewer explained that this docket does not address those additional units and that development fees are or will be charged to the developers. Finally, with respect to the location of the public hearing, the commission advised that it would take those concerns into consideration in future cases, but added that the public is also given the opportunity to provide written comments.

After receiving no additional questions or comments, the commission closed the public hearing.

C.

Order No. 23635

By Order No. 23635, filed on September 7, 2007, in Docket No. 00-0440 ("Order No. 23635"), the commission issued "a revised revenue requirement schedule that establishes a new monthly standby charge of \$19.94 per unit for [West Hawaii Sewer's 2001 calendar test year rate case], to take effect on October 15, 2007."¹¹ The commission is cognizant that the parties in the present docket calculated revenues at present rates based,

¹¹Order No. 23635, at 1. On September 19, 2007, West Hawaii Sewer filed a Motion for Reconsideration and Vacation of Order No. 23635, as well as a Motion to Stay Order No. 23635, both in Docket No. 00-0440. These motions are currently pending before the commission.

in part, on a monthly standby charge of \$27.13. The commission recognizes that it could seek to have the evidentiary record updated to properly reflect the authorized rates established in Order No. 23635. However, the commission notes that the parties have not requested an opportunity to update the evidentiary record in this docket. Moreover, given that the commission already provided the parties with an opportunity to update the evidentiary record through the parties' statements of probable entitlement, the parties have had sufficient opportunity to develop the evidentiary record in this docket. Finally, the commission recognizes the desirability of establishing rates based on the 2006 calendar test year in as timely and expeditious a manner as possible. Therefore, the commission, sua sponte, takes judicial notice of the monthly standby charge authorized in Docket No. 00-0440 and calculates West Hawaii Sewer's revenue requirement based on the evidentiary record provided, as discussed herein.

III.

Issues

The underlying issue, as set forth in Stipulated Procedural Order No. 22370, filed on April 4, 2006, is the reasonableness of West Hawaii Sewer's proposed general rate increase. This involves, in turn, a review of the following sub-issues:

1. Are the proposed tariffs, rates, and charges just and reasonable?

2. Are the revenue forecasts for the 2006 test year at present and proposed rates reasonable?
3. Are the projected operating expenses for the 2006 test year reasonable?

IV.

Summary of the Parties' Positions

A.

West Hawaii Sewer's Case-in-Chief

West Hawaii Sewer requests the commission's approval to increase its rates pursuant to HRS § 269-16 (Supp. 2004) and Hawaii Administrative Rules ("HAR") § 6-61-88. West Hawaii Sewer's case-in-chief is set forth in: (1) its Application and supporting exhibits, which include the pre-filed direct testimonies of its general manager (West Hawaii Sewer's Exhibit 7), and a revenue requirement study, dated December 2005 (West Hawaii Sewer's Exhibit 8); and (2) its responses to the Consumer Advocate's information requests, which update and revise certain information.

In its Application, West Hawaii Sewer requested an increase of approximately \$353,669 or 46.7 percent over revenues at present rates, based on an estimated total revenue requirement of \$1,110,935 for the 2006 calendar test year ("test year").¹² West Hawaii Sewer requests that its general rate increase and revisions to its rate schedules take effect by

¹²See Application at 4; WHSC Exhibit 8, attached to the Application, at 37 of 101.

increasing: (1) the monthly standby charge per estimated average number of customers; and (2) the consumption charge per thousand gallons of water usage. In its Application, West Hawaii Sewer describes its present and proposed charges as follows:¹³

<u>Sewer Rates</u>	<u>Present Charge</u>	<u>Proposed Charge</u>
Monthly Standby Charge	\$ 27.13	\$ 39.66
Consumption Charge	\$ 1.33	\$ 1.96

B.

Consumer Advocate's Counter-Position

The Consumer Advocate's counter-position is set forth in its direct testimonies and exhibits. The Consumer Advocate states that, consistent with the intent of Act 168, in order to expedite this proceeding, its review focused on critical elements of West Hawaii Sewer's request.¹⁴

In its counter-position, the Consumer Advocate recommends an increase of approximately \$110,014, or 14.1 percent over revenues at present rates, based on an estimated total revenue requirement of \$888,447 for the 2006 test year.¹⁵ The Consumer Advocate notes that the primary areas of differences between its position and West Hawaii Sewer's case-in-chief are:

¹³See WHSC Exhibit 8, attached to the Application, at 39 of 101.

¹⁴See CA-T-1 at 5.

¹⁵See CA-109.

1. The test year number of customers and gallons of water consumed resulting in differences in revenues at present rates;

2. The reasonable level of operating expenses due to adjustments reducing the test year labor and rate case expenses;

3. The inclusion of the entire CIAC funds received pursuant to the Company's tariff in the test year rate base; and

4. The recommended overall rate of return or weighted cost of capital.¹⁶

In order to minimize the issues, the Consumer Advocate states that it "did not pursue positions for which the [c]ommission has previously not accepted the Consumer Advocate's recommendations."¹⁷ The Consumer Advocate emphasizes, however, that: (1) it reserves the right in future rate cases to take issue with matters it may not have specifically addressed in this proceeding; and (2) its silence on these matters should not be construed as acceptance of West Hawaii Sewer's recommendations.¹⁸

Finally, the Consumer Advocate proposes to recover the entire increase through the monthly standby charge:¹⁹

<u>Sewer Rates</u>	<u>Present Charge</u>	<u>Proposed Charge</u>
Monthly Standby Charge	\$ 27.13	\$ 33.78
Commodity Charge	\$ 1.33	\$ 1.33

¹⁶See CA-T-1 at 4.

¹⁷See CA-T-1 at 6.

¹⁸See CA-T-1 at 6.

¹⁹See CA-T-1 at 57.

C.

West Hawaii Sewer's Rebuttal

Through its rebuttal statement, West Hawaii Sewer revises its request, and seeks an increase of approximately \$350,581 or 46.3 percent over revenues at present rates, based on an estimated total revenue requirement of \$1,107,847 for the 2006 test year.²⁰ In addition, West Hawaii Sewer revised its present and proposed charges as follows:²¹

<u>Sewer Rates</u>	<u>Present Charge</u>	<u>Proposed Charge</u>
Monthly Standby Charge	\$ 27.13	\$ 38.80
Consumption Charge	\$ 1.33	\$ 1.88

In its rebuttal statement, West Hawaii Sewer argues the following: (1) West Hawaii Sewer's test year salaries and wages expenses are projected real costs that West Hawaii Sewer will incur; (2) reducing West Hawaii Sewer's regulatory commission expense is unreasonable and inconsistent with the Consumer Advocate's past and current challenges to West Hawaii Sewer's rate applications; (3) West Hawaii Sewer's treatment of CIAC tax gross-up fees is proper and any rate base adjustment as suggested by the Consumer Advocate would violate established law; (4) West Hawaii Sewer's requested 10 percent rate of return is reasonable and fair; (5) West Hawaii Sewer's requested rate increase will not create "rate shock;" and (6) the

²⁰See West Hawaii Sewer's Rebuttal at 16.

²¹See WHSC Exhibit 16, attached to West Hawaii Sewer's Rebuttal, at 1.

Consumer Advocate's comments regarding equipment leases are inaccurate and irresponsible.²²

V.

Operating Revenues

West Hawaii Sewer receives revenues for its wastewater treatment operations from residential customers, multi-family customers, commercial customers, and public authority agencies, derived from a monthly standby charge and a consumption charge based on each customer's monthly water consumption.²³

In its Application, West Hawaii Sewer calculates its revenues at present and proposed rates, as follows:²⁴

	<u>Present Rates</u>	<u>Additional Amount</u>	<u>Proposed Rates</u>
Operating Revenues	\$757,266	\$353,669	\$1,110,935

The Consumer Advocate, in turn, calculates West Hawaii Sewer's revenues at present and proposed rates as follows:²⁵

	<u>Present Rates</u>	<u>Additional Amount</u>	<u>Proposed Rates</u>
Operating Revenues	\$778,433	\$110,014	\$888,447

²²See West Hawaii Sewer's Rebuttal at 2-16.

²³See CA-T-1 at 6-7.

²⁴See WHSC Exhibit 5, attached to the Application, at 1.

²⁵See CA-101 at 1 of 2; CA-T-1 at 3.

West Hawaii Sewer's latest figures are set forth in its rebuttal statement:²⁶

	<u>Present Rates</u>	<u>Additional Amount</u>	<u>Proposed Rates</u>
Operating Revenues	\$757,266	\$350,581	\$1,107,847

A.

Projected Number of Single and Multi-Family Customers Expecting Service in the Test Year

In its Application, West Hawaii Sewer states that it expects to provide wastewater treatment service to 1,355 customers during the test year.²⁷ This number assumes that 50 new residential customers will receive service in the test year and that 176 single-family customers will require service from the K plant:²⁸

<u>Customers</u>	<u>Est 2006 Additions</u>	<u>2006 Average</u>
A Plant Single Family	25	13
K Plant Single Family		176
A Plant Multi-Family	25	1,008
K Plant Multi-Family		94
A Plant Public Authority		4
K Plant Public Authority		17
A Plant Commercial		43
K Plant Commercial		0
Total Customers:	50	1,355

²⁶See West Hawaii Sewer's Rebuttal at 16; WHSC Exhibit 15, attached to West Hawaii Sewer's Rebuttal, at 1.

²⁷See WHSC Exhibit 8, attached to the Application, at 10 of 101.

²⁸See WHSC Exhibit 8, attached to the Application, at 10 of 101.

The Consumer Advocate states that West Hawaii Sewer's estimation of 50 new residential customers (25 for "A Plant Single Family" and 25 for "A Plant Multi-Family") requiring service in the test year is not reasonable.²⁹ The Consumer Advocate argues that the new residential customers that are expected to receive service in the second quarter of 2006 should be included in the estimated 2006 additions.³⁰ Thus, the Consumer Advocate estimates that a total of 68 customers should be included in the estimated 2006 additions to the "A Plant Multi-Family" estimate. Therefore, in addition to the 25 customers in the "A Plant Single Family" estimate, the Consumer Advocate estimates a total of 93 customers in the estimated 2006 additions.³¹ In rebuttal, West Hawaii Sewer does not discuss or object to the Consumer Advocate's calculation of total estimated 2006 additions.

The Consumer Advocate also states that West Hawaii Sewer's estimation of 176 single-family customers requiring service from the "K" plant in the test year is not reasonable.³² The Consumer Advocate explains that the customer count of

²⁹See CA-T-1 at 10.

³⁰See CA-T-1 at 11 (citing West Hawaii Sewer's confidential responses to CA-IR-2d and CA-IR-2e).

³¹See CA-101 at 1 of 2.

³²See CA-T-1 at 11.

176 appears to be an error and that the number of single-family customers receiving services from the "K" Plant should be 177.³³ In rebuttal, West Hawaii Sewer does not discuss or object to the Consumer Advocate's 2006 test year estimate of 177 "K" Plant customers.

In sum, the Consumer Advocate estimates that West Hawaii Sewer will provide wastewater treatment service to 93 new residential customers in the test year and that 177 single-family customers will require service from the K plant, for a total of 1,377 customers during the test year:

<u>Customers</u>	<u>Est 2006 Additions</u>	<u>2006 Average</u>
A Plant Single Family	25	13
K Plant Single Family		177
A Plant Multi-Family	68	1,029
K Plant Multi-Family		94
A Plant Public Authority		4
K Plant Public Authority		17
A Plant Commercial		43
K Plant Commercial		0
 Total Customers:	 93	 1,377

The commission finds the Consumer Advocate's test year customer count to be reasonable. Accordingly, the test year customer count will include 50 new residential customers and 176 single-family customers requiring service from the K plant,

³³The Consumer Advocate explains that West Hawaii Sewer's confidential Exhibit 8, pages 43 through 48 of 101, shows that West Hawaii Sewer provided service to 177 single-family customers from the "K" plant during the period from 2000 through 2004. See CA-T-1 at 11. Furthermore, in response to CA-IR-1c and -2, West Hawaii Sewer states that it "currently provides sewer service to 177 single-family residential customers." See CA-T-1 at 11. The confidential responses to CA-IR-2a and -2b also confirm that West Hawaii Sewer provided service to 177 customers at December 31, 2005. See CA-T-1 at 11.

for a total of 1,377 test year customers. Based on this test year customer count and the monthly standby charge of \$19.94 per unit,³⁴ the commission calculates the fixed fee revenues at present rates as follows:

<u>Customers</u>	<u>Customer Count</u>	<u>Fixed Fee Revenues</u>
A Plant Single Family	13	\$ 3,111
K Plant Single Family	177	\$ 42,353
A Plant Multi-Family	1029	\$ 246,219
K Plant Multi-Family	94	\$ 22,492
A Plant Public Authority	4	\$ 957
K Plant Public Authority	17	\$ 4,068
A Plant Commercial	43	\$ 10,289
K Plant Commercial	0	\$ 0
Fixed Fee Revenues, Present Rates:		\$ 329,489

B.

Test Year Volumetric Revenue

West Hawaii Sewer projects volumetric revenues of \$316,132 for the 2006 test year.³⁵ West Hawaii explains that it estimated the 2006 water consumption using the following methodology:

Except for residential, all customers were analyzed separately and the 2006 estimated water consumption was projected on a customer-by-customer basis. Generally, a six-year average was used if six years of data was available. Residential usage was projected in total by estimating the average usage for the years 2000-2005. This was

³⁴As discussed in section II.C., supra, by Order No. 23635, the commission established a new monthly standby charge of \$19.94 per unit for West Hawaii Sewer's 2001 calendar test year rate case.

³⁵See WHSC Exhibit 8, attached to the Application, at 13 of 101.

possible due to a consistent number of residential customers over the past 6 years.³⁶

West Hawaii Sewer then calculated the test year volumetric revenues by multiplying the estimated water consumption by the estimated average number of customers in the test year.³⁷

The Consumer Advocate states that West Hawaii Sewer's methodology understates the test year volumetric revenues by \$13,993, and that the test year volumetric revenues should be \$330,125.³⁸ First, the Consumer Advocate explains that by simply averaging a customer's water use over a six-year period to derive the average annual consumption per customer, West Hawaii Sewer does not recognize the trend in usage, or the fact that the customer may not have required service during the entire six-year period.³⁹ Understating or overstating the actual annual average water consumption results in understated or overstated test year volumetric revenues.⁴⁰ For example, as pointed out by the Consumer Advocate, West Hawaii Sewer averaged the water usage for a customer over the entire six-year period when the customer only started to receive service in late 2004, resulting in an understatement of the customer's average annual water

³⁶See WHSC Exhibit 8, attached to the Application, at 12 of 101.

³⁷See WHSC Exhibit 8, attached to the Application, at 13 of 101.

³⁸See CA-T-1 at 12, 16.

³⁹See CA-T-1 at 13.

⁴⁰See CA-T-1 at 13.

consumption.⁴¹ The Consumer Advocate estimates that West Hawaii Sewer understates the estimated average usage per multi-family customer by approximately 7,000 thousand gallons, resulting in an understatement of the test year volumetric revenue for multi-family customers.⁴² In rebuttal, West Hawaii Sewer does not discuss or object to the Consumer Advocate's estimates for average usage per customer.

Second, the Consumer Advocate states that West Hawaii Sewer's test year volumetric revenues must be adjusted for the additional single and multi-family customers that are expected to receive service in the test year and were not included in the Company's projections.⁴³ As discussed above, in rebuttal, West Hawaii Sewer does not discuss or object to the Consumer Advocate's test year customer count.

Thus, the Consumer Advocate calculates the amount of revenues generated from the consumption charge under present rates as follows:⁴⁴

⁴¹See CA-T-1 at 15-16 (citing WHSC Exhibit 8, attached to the Application, at 43 of 101; Confidential responses to CA-IR-2a, b).

⁴²See CA-T-1 at 16.

⁴³See CA-T-1 at 16.

⁴⁴See CA-101 at 1 of 2.

<u>Customers</u>	<u>Total Water Usage (1,000 gal)</u>	<u>Volumetric Revenues</u>
A Plant Single Family	1,911	\$ 2,542
K Plant Single Family	26,019	\$ 34,605
A Plant Multi-Family	162,582	\$ 216,234
K Plant Multi-Family	20,398	\$ 27,129
A Plant Public Authority	644	\$ 857
K Plant Public Authority	22,814	\$ 30,343
A Plant Commercial	13,846	\$ 18,415
K Plant Commercial	0	\$ 0
Total Revenues, Present Rates:		\$ 330,125

The commission finds reasonable the Consumer Advocate's forecasted revenues generated from West Hawaii Sewer's consumption charge under present rates. Accordingly, the volumetric revenues at present rates will be \$330,125.

C.

Total Operating Revenues

Based on the foregoing, the commission finds reasonable the test year estimates for operating revenues at present rates, as follows:

Total Revenues,	
Monthly Standby Charge:	\$ 329,489
Total Revenues,	
Consumption Charge:	<u>\$ 330,125</u>
Total:	\$ 659,613 ⁴⁵

⁴⁵The difference of \$1.00 is due to rounding.

VI.

Expenses

West Hawaii Sewer projects Operating Expenses of \$738,473 for the test year:⁴⁶

Operating Expenses	Amount	% of Total Operating Expenses
Salaries and Wages - Employees	\$ 304,306	41%
Purchased Power	\$ 25,020	3%
Fuel for Power Production	\$ 22,572	3%
Chemicals	\$ 14,592	2%
Materials & Supplies	\$ 59,544	8%
Contractual Services - Other	\$ 18,496	3%
Rental of Equipment	\$ 29,136	4%
General and Administrative ("G&A")	\$ 264,807	36%
Total	\$ 738,473	100%

West Hawaii Sewer either relied upon a simple average of the recorded expenses incurred for 2000 through 2006, occasionally inflated by 3 percent, or used the 2006 budget to determine the test year projection.⁴⁷

The Consumer Advocate's test year Operating Expense projection is \$634,295:⁴⁸

⁴⁶See WHSC Exhibit 8, attached to the Application, at 16 of 101.

⁴⁷See WHSC Exhibit 8, attached to the Application, at 55 and 61 of 101.

⁴⁸See CA-110 at 1 of 2.

Operating Expenses	Amount	Difference From WHSC
Salaries and Wages - Employees	\$ 257,680	\$ 46,626
Purchased Power	\$ 25,020	
Fuel for Power Production	\$ 22,572	
Chemicals	\$ 14,592	
Materials & Supplies	\$ 59,544	
Contractual Services - Other	\$ 18,496	
Rental of Equipment	\$ 29,136	
General and Administrative ("G&A")	\$ 207,255	\$ 57,552
Total	\$ 634,295	\$ 104,178

As shown above, the Consumer Advocate's projection of \$634,295 for Operating Expenses is \$104,178 lower than West Hawaii Sewer's projection of \$738,473.

A.

Test Year Salaries and Wages Expense

The Consumer Advocate recommends a reduction of \$46,626 to remove certain expenses from the Salaries and Wages - Employees component of West Hawaii Sewer's Operating Expenses projection.⁴⁹

West Hawaii Sewer does not have any employees.⁵⁰ Rather, Waikoloa Development Company ("WDC"), its parent entity, provides all of West Hawaii Sewer's employment services, including operational, general and administrative support, and management, pursuant to contract.⁵¹ WDC's employees provide support for West Hawaii Sewer, WHWC, and WHUC and charge the time

⁴⁹See CA-T-1 at 28-29.

⁵⁰See WHSC Exhibit 8, attached to the Application, at 8 of 101.

⁵¹See WHSC Exhibit 8, attached to the Application, at 8 and 56 of 101.

spent performing various tasks on behalf of each utility to WDC's Utilities Department cost center.⁵² The Utilities Department cost center costs are then allocated to each utility based on the time card data reflecting the time spent performing each task for the respective utility.⁵³ West Hawaii Sewer's test year salaries and wages expense for operations and G&A expense are based on WDC's allocation of the expected labor hours incurred to perform support services for West Hawaii Sewer, WHUC, and WHWC.⁵⁴

The Consumer Advocate recommends an adjustment to the test year salaries and wages expense allocation from WDC to remove the labor costs associated with two vacant positions. The Consumer Advocate explains that "[s]hould WDC continue to have vacancies, the estimated test year allocation will over-state the actual allocation."⁵⁵ According to the Consumer Advocate, a comparison of the budget to actual costs incurred by WDC's Utilities Department indicates that since 2004 when the total estimated costs for the Utilities Department cost center increased by 23 percent over the 2003 estimate, the actual costs have been 11 percent less than the estimated costs for 2004 and 2005. Thus, it is not unreasonable to expect a lower than

⁵²See WHSC Exhibit 8, attached to the Application, at 56 of 101.

⁵³See WHSC Exhibit 8, attached to the Application, at 56 of 101.

⁵⁴See WHSC Exhibit 8, attached to the Application, at 56 of 101.

⁵⁵CA-T-1 at 26.

expected labor cost allocation due to vacancies at WDC's Utilities Department cost center.

In its rebuttal, West Hawaii Sewer states that the two positions in question, the Field Engineer and the Utility Plant Operator Assistant, are "critical components of [West Hawaii Sewer]'s operations."⁵⁶ West Hawaii Sewer explains:

The Field Engineer is the wastewater engineer with the primary responsibility of managing all aspects of wastewater operations at [West Hawaii Sewer]'s Waikoloa Resort Wastewater Reclamation facility and the Waikoloa Village wastewater facilities (A-Plant and K-Plant). Aside from oversight of the daily operations of these facilities, the Field Engineer coordinates routine and emergency maintenance activities, initiates enhancement programs to improve plant operating and safety conditions, coordinates long[-]range planning activities, oversees construction projects, and coordinates purchasing and capital asset acquisition programs for sewer operations. The absence of the Field Engineer reduces [West Hawaii Sewer]'s ability to detect and resolve potential operating and maintenance problems, increases the potential for system failures, decreases operating efficiency, and increase operating and maintenance costs.⁵⁷

West Hawaii Sewer also explains that "[t]he Utility Plant Operator Assistant position allocates 71 percent of his time to Village sewer operations and is key to daily sewer plant operations. The absence of this operator places a considerable strain on daily activities and limits flexibility in initiating and maintaining routine preventative maintenance programs."⁵⁸

⁵⁶West Hawaii Sewer's Rebuttal at 2.

⁵⁷West Hawaii Sewer's Rebuttal at 2-3.

⁵⁸West Hawaii Sewer's Rebuttal at 3.

According to West Hawaii Sewer, "both positions must and will be filled."⁵⁹ West Hawaii Sewer also states that it "expects both positions will be filled in the test year and remain filled through upcoming years."⁶⁰

Upon review of the foregoing, the commission accepts West Hawaii Sewer's assertions that the Field Engineer and the Utility Plant Operator Assistant are critical to West Hawaii Sewer's operations and that these positions will be filled and remain filled through the upcoming years. Accordingly, the commission does not adopt the Consumer Advocate's recommendation to reduce West Hawaii Sewer's test year salaries and wages expense by \$46,626 to remove the fully loaded WDC labor costs associated with the two vacant positions at March 2006.⁶¹

B.

G&A Expenses

West Hawaii Sewer's above-described projection of \$264,807 for G&A Expenses is comprised of the following:⁶²

⁵⁹West Hawaii Sewer's Rebuttal at 3.

⁶⁰West Hawaii Sewer's Rebuttal at 4.

⁶¹In the event that the Field Engineer and the Utility Plant Operator Assistant positions continue to remain vacant or experience one or more extended periods of vacancy, the commission may revisit this issue in a future rate case.

⁶²See WHSC Exhibit 8, attached to the Application, at 17 of 101. The commission notes that the difference in total is due to rounding.

G&A Expenses	Amount	% of G&A Expenses
Salaries and Wages - Employees	\$ 166,911	63%
Materials and Supplies	\$ 1,697	1%
Contractual Services	\$ 34,021	13%
Rental of Building/Real Property	\$ 7,236	3%
Rental of Equipment	\$ 14,364	5%
Transportation Expense	\$ 4,377	2%
Insurance	\$ 10,692	4%
Regulatory Commission-Rate Case	\$ 24,117	9%
Miscellaneous Expense	\$ 1,392	1%
Total	\$ 264,807	100%

The Consumer Advocate's test year G&A Expenses projection is \$207,255:⁶³

G&A Expenses	Amount	Difference From WHSC
Salaries and Wages - Employees	\$ 118,311	\$ 48,600
Materials and Supplies	\$ 1,697	
Contractual Services	\$ 34,021	
Rental of Building/Real Property	\$ 7,236	
Rental of Equipment	\$ 14,364	
Transportation Expense	\$ 4,377	
Insurance	\$ 10,692	
Regulatory Commission-Rate Case	\$ 15,165	\$ 8,952
Miscellaneous Expense	\$ 1,392	
Total	\$ 207,255	\$ 57,552

As shown above, the Consumer Advocate's projection of \$207,255 for G&A Expenses is \$57,552 lower than West Hawaii Sewer's projection of \$264,807.

1.

Adjustment to G&A Labor Cost Allocation

The Consumer Advocate recommends a reduction of \$48,600 to remove the "unsupported increase in [the] G&A allocation," which appears in the Salaries and Wages - Employees component of

⁶³See CA-110 at 2 of 2.

the G&A Expenses.⁶⁴ The Consumer Advocate explains that West Hawaii Sewer's response to CA-IR-21c shows that West Hawaii Sewer reduced its G&A labor cost allocation by \$48,600.⁶⁵ The Consumer Advocate explains that the \$48,600 estimate appears to be comparable to West Hawaii Sewer's historical actual and projected G&A labor cost allocations from 2000 through the 2006 test year.⁶⁶

In its rebuttal, West Hawaii Sewer states that the Consumer Advocate "misreads" or "misunderstands" WHSC Exhibit 8, page 50 of 101, and WHSC Exhibit CA-IR-21c.⁶⁷ West Hawaii Sewer explains that WHSC Exhibit 8, page 50 of 101, and WHSC Exhibit CA-IR-21c "reflect the same amount of WDC labor charges to be allocated among the Waikoloa utility companies."⁶⁸ West Hawaii Sewer states that "CA-IR-[21c] is a budget worksheet intended to track labor that will be accounted for as an expense for the budget year and does not allocate job cost labor, which

⁶⁴See CA-T-1 at 28-29.

⁶⁵See CA-T-1 at 27-28. West Hawaii Sewer's response to CA-IR-21c shows that it is allocating \$64,340 in G&A salaries during the 2006 test year, a \$48,600 reduction to the \$112,940 previously estimated. See WHSC Exhibit CA-IR-21c, at 7 of 7 (line item 423-160-00-8893.000 Admin & General).

⁶⁶See CA-T-1 at 27; CA-105 at 1.

⁶⁷See West Hawaii Sewer's Rebuttal at 4.

⁶⁸West Hawaii Sewer's Rebuttal at 4.

is usually capitalized rather than expensed."⁶⁹ In contrast, West Hawaii Sewer states, that "WHSC Exhibit 8, [p]age 50 of 101 is intended to show the total labor costs for each utility company, including an allocation of the budgeted job cost labor according to the direct labor allocation percentages."⁷⁰ Thus, West Hawaii Sewer states that it is entitled to recover the \$48,600 for the job cost labor as part of its G&A labor cost allocation.⁷¹

For ratemaking purposes, job cost labor is recoverable through the depreciation of plant in service. Therefore, it would be inappropriate for West Hawaii Sewer to recover its job cost labor as part of its G&A labor cost allocation at this time. Accordingly, the commission agrees with the Consumer Advocate that West Hawaii Sewer's increase in the Salaries and Wages - Employees component of the G&A Expenses should be reduced by \$48,600, the amount allocated as job cost labor.

⁶⁹West Hawaii Sewer Rebuttal at 4. The Consumer Advocate acknowledges that it is reasonable for WDC to allocate more costs as job cost labor "in light of the fact that all three utilities are embarking upon capital expenditure programs to either expand or replace the existing facilities in order to meet the increasing demand for utility service resulting from the recent increase in real estate development activity." CA-T-1 at 28.

⁷⁰West Hawaii Sewer Rebuttal at 4 (emphasis in original).

⁷¹See West Hawaii Sewer Rebuttal at 4.

2.

Regulatory Commission Expense

In its Application, West Hawaii Sewer proposes to include \$24,117 in the test year revenue requirement for regulatory commission expense:⁷²

Rate Consultant	\$ 39,623
Legal Fees	\$ 70,000
Contingency	<u>\$ 10,962</u>
Total	\$ 120,585

Annual Amortization based on a 5-year amortization period	\$ 24,117
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However, in its response to CA-IR-18a and -b, West Hawaii Sewer provides total estimated and actual rate case costs of \$101,326:⁷³

Actual Preparation and Filing Costs	\$ 36,043
Estimated Discovery and Statement of Position preparation costs	\$ 39,785
Estimated Hearings and Briefings costs	<u>\$ 25,498</u>
Total Estimated Rate Case Costs per CA-IR-18	\$ 101,326

The Consumer Advocate recommends two adjustments to West Hawaii Sewer's projected regulatory commission expense. The first is to reduce the estimate included in West Hawaii Sewer's application by \$19,259 to reflect the current estimate provided in response to CA-IR-18a and -b.⁷⁴ The second adjustment recommended by the Consumer Advocate is to remove the estimated

⁷²See WHSC Exhibit 8, attached to the Application, at 64 of 101.

⁷³WHSC Exhibit CA-IR-18a, b.

⁷⁴CA-T-1 at 29.

\$25,498 costs associated with the hearing and briefing phase of the proceeding.⁷⁵

With respect to the first adjustment, the Consumer Advocate recommends that a downward adjustment of \$19,259 is reasonable because "the estimated costs [in the Application] to prepare and file the application were overstated."⁷⁶ The Consumer Advocate calculates the adjustment as follows: \$120,585 (total estimate per Appendix D, WHSC Exhibit 8, page 64) minus \$101,326 (total estimate per CA-IR-18) equals \$19,259.⁷⁷ In rebuttal, West Hawaii Sewer does not discuss or object to the Consumer Advocate's recommendation to make a \$19,259 downward adjustment to the regulatory commission expense estimate in the Application. Based on the foregoing, the commission agrees with the Consumer Advocate that the \$120,585 estimate in West Hawaii Sewer's Application should be reduced by \$19,259 to reflect the current estimate provided in response to CA-IR-18a and -b.

With respect to the second adjustment, the Consumer Advocate recommends that a downward adjustment of \$25,498 is reasonable because "the need to have an evidentiary hearing has been all but eliminated."⁷⁸ The Consumer Advocate reasons that, for rate applications filed by water and wastewater

⁷⁵CA-T-1 at 30.

⁷⁶CA-T-1 at 30.

⁷⁷See CA-T-1 at 30.

⁷⁸CA-T-1 at 32.

utilities over the past fifteen (15) years or so, the applicants and Consumer Advocate have been able to resolve their differences, thereby all but eliminating the need for an evidentiary hearing.⁷⁹ Moreover, any remaining differences are argued in written briefs in lieu of an evidentiary hearing.⁸⁰ In addition, under Act 168, the right to an evidentiary hearing ensues only if the commission's Proposed Decision and Order is not accepted.⁸¹ In rebuttal, West Hawaii Sewer references higher than anticipated regulatory commission expenses in Docket No. 00-0440, and the Consumer Advocate's positions on labor costs and other matters in this docket.⁸² Based on the foregoing, the commission agrees with the Consumer Advocate that the costs associated with the evidentiary hearing and preparation of a post-hearing brief, in the amount of \$25,498, should be removed from West Hawaii Sewer's test year rate case expense and resulting amortization. The commission reiterates that, at this juncture, there is no right to a contested case hearing under HRS § 269-16(f):

In the event the conditions set forth in HRS § 269-16(f)(3) are met, i.e., the Parties strictly comply with the established procedural schedule and there is no intervention, "the [P]arties shall not be entitled to a contested case hearing[,]" "[p]rior to the issuance of the commission's

⁷⁹See CA-T-1 at 32.

⁸⁰See CA-T-1 at 32.

⁸¹See CA-T-1 at 32-33.

⁸²See West Hawaii Sewer's Rebuttal at 5.

proposed decision and order[.]” HRS
§ 269-16(f)(3).⁸³

As the commission has previously stated, “[i]nstead, only if one (1) or both Parties object to the proposed Decision and Order, or if the Parties waive the right to the commission’s issuance of a proposed Decision and Order within six (6) months of West Hawaii Sewer’s complete Application, is a contested case hearing contemplated under HRS § 269-16(f).”⁸⁴

West Hawaii Sewer proposes to utilize a five-year amortization period.⁸⁵ The basis for the period appears to be the actual interval between the last rate filing (i.e., Docket No. 00-0440, using a 2001 test year) and the instant filing (using a 2006 test year). The Consumer Advocate does “not take issue with the proposed amortization period in light of the fact that it does represent the recent actual experience between rate filings.”⁸⁶

Accordingly, the commission approves a revised regulatory commission expense of \$75,828 (i.e., \$120,585 - [\$19,259 + \$25,498]). This cost will be amortized over the five-year period proposed by West Hawaii Sewer to derive

⁸³Order No. 21675, filed on March 7, 2005, in Docket No. 04-0373 (“Order No. 21675”), at 3-4 (citing Order No. 21574, filed on January 28, 2005, in Docket No. 04-0373, at 6).

⁸⁴Order No. 21675, at 4.

⁸⁵See WHSC Exhibit 8, attached to the Application, at 64 of 101.

⁸⁶CA-T-1 at 34.

a test year rate case expense of \$15,165 (i.e., $\$75,828 \div 5$ years = \$15,165).

3.

Equipment Leases

West Hawaii Sewer expects to incur \$14,364 in lease expense for the equipment listed in Appendix N, WHSC Exhibit 8, page 101. Although the Consumer Advocate does not recommend an adjustment to remove the \$14,364 equipment lease expense in this proceeding, the Consumer Advocate states that "the lease payments which the Company proposes to recognize as operating expense are in fact financing leases, as opposed to an operating lease."⁸⁷ In its rebuttal, West Hawaii Sewer strongly objects to the Consumer Advocate's characterization of the equipment leases and maintains that "[a]ll leases for all of the Waikoloa utility companies are operating leases and meet the criteria established in FASB 13 as verified by annual audits."⁸⁸ Because there is no actual controversy as to the inclusion or the amount of the equipment leases as an expense in the test year revenue requirement calculation, the commission declines to address this issue at this time.

⁸⁷CA-T-1 at 36.

⁸⁸West Hawaii Sewer's Rebuttal, at 16.

VII.

Taxes Other Than Income Taxes and Income Taxes

The Consumer Advocate does not have any concerns with West Hawaii Sewer's test year projections for taxes other than income taxes and income taxes.⁸⁹ The Consumer Advocate utilized the same tax rates and methodology for computing its test year projections for these two expenses.⁹⁰ Any differences between the Consumer Advocate's and West Hawaii Sewer's test year projection is due to differences in: (1) the revenue projections for Taxes Other Than Income Taxes; and (2) the revenue and expense projections for Income Taxes, discussed above.⁹¹

VIII.

Contributions in Aid of Construction ("CIAC")

A.

CIAC Balance

West Hawaii Sewer proposes to recognize \$1,662,739 as the CIAC balance at both December 31, 2005 and December 31, 2006.⁹² Of this amount, \$503,216 represents fees collected pursuant to WHSC's Tariff (i.e., cash contributions) and

⁸⁹ See CA-T-1 at 38.

⁹⁰ See CA-T-1 at 38.

⁹¹ See CA-T-1 at 38.

⁹² See WHSC Exhibit 8, attached to the Application, at 24 of 101.

\$1,159,523 represents the costs of facilities that were contributed to the company (i.e., in-kind contributions).⁹³

In its direct testimonies, the Consumer Advocate recommended an upward adjustment of \$623,690 to West Hawaii Sewer's proposed CIAC balance, for a CIAC balance of \$2,286,429.⁹⁴ However, in its Statement of Probable Entitlement, the Consumer Advocate states that "the \$623,690 adjustment requires further refinement based on the reconciliation conducted of information presented in the instant proceeding and in Docket No. 00-0440"⁹⁵ Thus, the Consumer Advocate's Statement of Probable Entitlement includes revised tables and workpapers that recommend a reduced upward adjustment of \$546,968 to West Hawaii Sewer's proposed CIAC balance, for a CIAC balance of \$2,209,707.⁹⁶

As demonstrated by the Consumer Advocate's Contribution in Aid of Construction Reconciliation Schedule ("Consumer Advocate's CIAC Reconciliation Schedule"),⁹⁷ the Consumer Advocate's \$546,968 recommended adjustment is based on two adjustments to West Hawaii Sewer's proposed CIAC balance.

⁹³See WHSC Exhibit 8, attached to the Application, at 24 of 101.

⁹⁴See CA-113; CA-WP-113.

⁹⁵Consumer Advocate's Statement of Probable Entitlement at 16.

⁹⁶See CA-113 (Rev. 11/27/06); CA-WP-113 (Rev. 11/27/06).

⁹⁷See Consumer Advocate's CIAC Reconciliation Schedule, attached to the Consumer Advocate's Statement of Probable Entitlement ("Consumer Advocate's CIAC Reconciliation Schedule").

First, the Consumer Advocate recommends that West Hawaii Sewer's proposed CIAC balance should include "the amounts that should have been collected pursuant to [West Hawaii Sewer]'s then[-]effective tariff."⁹⁸ The Consumer Advocate states, "[w]hile [West Hawaii Sewer] acknowledged the need to reflect these amounts in its rebuttal testimony in Docket No. 00-0440, it incorrectly excluded these amounts in the instant proceeding."⁹⁹ West Hawaii Sewer does not address the Consumer Advocate's concern regarding these exclusions. Therefore, the commission accepts the Consumer Advocate's adjustment of \$114,944 to CIAC fees as reasonable.

Second, the Consumer Advocate recommends that West Hawaii Sewer's proposed CIAC balance should include the tax gross-up amounts for the CIAC fees, including the above-discussed adjustment, and for certain in-kind CIAC.¹⁰⁰ The Consumer Advocate calculates the total tax gross-up CIAC as \$432,021.¹⁰¹

The commission agrees with the Consumer Advocate that West Hawaii's Sewer's proposed CIAC balance is unreasonable because it fails to include the tax gross-up CIAC. In Order No. 23635, the commission recognized that "an adjustment [to the

⁹⁸Consumer Advocate's CIAC Reconciliation Schedule.

⁹⁹Consumer Advocate's CIAC Reconciliation Schedule.

¹⁰⁰Consumer Advocate's CIAC Reconciliation Schedule.

¹⁰¹Consumer Advocate's CIAC Reconciliation Schedule.

CIAC reported net of income tax] should be made to include the income tax component as part of [West Hawaii Sewer]'s test year CIAC, consistent with [In re Waikoloa Sanitary Sewer Company, Inc., 109 Hawai'i 263, 125 P.3d 484 (Haw. 2006)]."¹⁰² Therefore, consistent with Order No. 23635, West Hawaii Sewer's CIAC balance for rate-setting purposes should include the tax gross-up component. Thus, the commission accepts the Consumer Advocate's recommendation to include \$432,021 for the CIAC tax gross-up as part of the CIAC balance.

Based on the foregoing, the commission finds that an upward adjustment of \$546,968¹⁰³ to West Hawaii Sewer's proposed CIAC balance, for a CIAC balance of \$2,209,707, is reasonable.¹⁰⁴

¹⁰²Order No. 23635, filed on September 7, 2007, in Docket No. 00-0440, at 18.

¹⁰³Based on the foregoing, \$114,944 to include the CIAC amounts that should have been collected plus \$432,021 for the CIAC tax gross-up equals \$546,965. However, the commission adopts an upward adjustment of \$546,968, as shown on CA-WP-113 (Rev. 11/27/06).

¹⁰⁴The Consumer Advocate notes that West Hawaii Sewer only recognizes the CIAC funds received for completed real estate development projects in the test year rate base. See CA-T-1 at 44. The Consumer Advocate raises its concern regarding the treatment of "CIAC funds that were received for real estate projects that are cancelled or abandoned," and states that it will address this concern "in the pending dockets addressing the CIAC tariff revisions (i.e., Docket Nos. 05-0288 and 06-0090)." See CA-T-1 at 45. Because the Consumer Advocate is not presenting an issue for commission determination in this docket, the commission does not address the concern raised by the Consumer Advocate at this time.

B.

Accumulated Amortization of CIAC

In its Rebuttal, West Hawaii Sewer states that "the [Consumer Advocate] assumes . . . that a 50-year amortization period for CIAC is appropriate, when in fact the actual average useful life of [West Hawaii Sewer's] fixed assets is approximately 17.8 years."¹⁰⁵ West Hawaii Sewer provides Exhibit 11, entitled "Schedule of Utility Plant Assets Useful Lives As At [sic] April 30, 2006," which lists 115 assets having useful lives ranging from three years to fifty years.¹⁰⁶ West Hawaii Sewer computed a straight average of the 2,046 total years of useful life over the 115 assets, for an average useful life of 17.79 years (rounded to a 17.8 amortization period for CIAC).¹⁰⁷

The Consumer Advocate states that "[West Hawaii Sewer]'s proposal to apply a shorter amortization period is inconsistent with the period that the Company currently uses to amortize CIAC."¹⁰⁸ The Consumer Advocate points out that "[a]s noted in WHSC [Exhibit] 8, page 79 of 101, CIAC is amortized over a 50-year period."¹⁰⁹ Thus, the Consumer Advocate maintains that

¹⁰⁵West Hawaii Sewer's Rebuttal at 10.

¹⁰⁶WHSC Exhibit 11, attached to West Hawaii Sewer's Rebuttal.

¹⁰⁷WHSC Exhibit 11, attached to West Hawaii Sewer's Rebuttal.

¹⁰⁸Consumer Advocate's Statement of Probable Entitlement at 20.

¹⁰⁹Consumer Advocate's Statement of Probable Entitlement at 20.

"[t]he Consumer Advocate's amortization of the CIAC income tax gross-up amounts is not arbitrary and is consistent with the period that the Company amortizes the non-income tax CIAC collections."¹¹⁰

The commission agrees with the Consumer Advocate that a 50-year amortization period is consistent with West Hawaii Sewer's amortization life for CIAC. Indeed, West Hawaii Sewer provided Appendix F to its Application, attached as WHSC Exhibit 8, pages 75 through 83 of 101, stating that "Appendix F contains detailed schedules of CIAC and accumulated amortization calculations for the years ending December 31, 2005 and 2006."¹¹¹ As Appendix F demonstrates, West Hawaii Sewer appears to utilize a 50-year amortization life for the majority of its CIAC.¹¹² Accordingly, the commission accepts a 50-year amortization period for CIAC as reasonable.

IX.

Working Cash

West Hawaii Sewer computes working cash by equating the working capital requirement to $1/12^{\text{th}}$ of the total estimated test year operating expenses.¹¹³ The Consumer Advocate does not object

¹¹⁰Consumer Advocate's Statement of Probable Entitlement at 20-21.

¹¹¹WHSC Exhibit 8, attached to the Application, at 75 of 101.

¹¹²See WHSC Exhibit 8, attached to the Application, at 77-79 and 81-83 of 101.

¹¹³See WHSC Exhibit 8, attached to the Application, at 27 of 101.

to West Hawaii Sewer's methodology.¹¹⁴ The 1/12th factor "equates to [an approximately] 30-day time lag between the rendering of the service and payment by the customer," and provides "a general estimation of a utility's working capital requirements."¹¹⁵ The commission agrees with the Consumer Advocate that it is generally acceptable to use the 1/12th formula methodology to compute working cash.¹¹⁶ The commission has accepted this methodology for West Hawaii Sewer (Decision and Order Nos. 13791 and 19223), as well as for West Hawaii Utility Company (Decision and Order No. 16372), and West Hawaii Water Company (Decision and Order No. 17271). Accordingly, the commission accepts West Hawaii Sewer's 1/12th formula methodology in this docket.

X.

Rate of Return

West Hawaii Sewer requests an opportunity to earn a 10 percent rate of return on its test year rate base, stating that "[t]he Company believes that a fair rate of return on its rate base is 10 [percent]."¹¹⁷

The Consumer Advocate objected to the proposed 10 percent rate of return, and proposed an 8.85 percent rate of return "based on the cost of capital analysis performed by a cost

¹¹⁴See CA-T-1 at 46.

¹¹⁵CA-T-1 at 47.

¹¹⁶See CA-T-1 at 47.

¹¹⁷WHSC Exhibit 8, attached to the Application, at 36 of 101.

of capital witness in Docket No. 03-0025[.]”¹¹⁸ The Consumer Advocate explained that although the cost of capital analysis is based on the capital structure and cost rates of another utility, “[t]he 8.85 [percent] rate of return is reasonable for WHSC because the factors supporting such return are comparable to the factors supporting the 8.85 [percent] rate of return for the other utility.”¹¹⁹ Thus, the Consumer Advocate summarized its reasons for recommending an 8.85 percent rate of return as follows:

[I]n recent rate proceedings[,] where a utility retained an expert cost of capital witness, the overall rate of return was lower than 10 [percent]. The Consumer Advocate recommends that the 8.85 [percent] rate of return be used for the instant proceeding because the utility for which the return was found reasonable also provides wastewater treatment services to primarily residential customers. Furthermore, the Consumer Advocate has recently stipulated to using 8.85 [percent] for other privately owned wastewater treatment utilities although the utilities initially requested a 10 [percent] rate of return.¹²⁰

In its rebuttal, West Hawaii Sewer argues that “the requested 10 percent rate of return is consistent with rates of return the [c]ommission has found fair and reasonable in other

¹¹⁸CA-T-1 at 48.

¹¹⁹CA-T-1 at 49.

¹²⁰CA-T-1 at 54-55 (citation omitted).

recent [n]eighbor [i]sland wastewater cases"¹²¹ and that the Consumer Advocate "itself agreed that a 10 percent rate of return was reasonable for WHSC in Docket No. 00-0440."¹²²

Although West Hawaii Sewer relies on the 10 percent rate of return approved by the commission in Docket No. 00-0440,¹²³ an applicant is not necessarily entitled to earn a rate of return simply because that rate of return was allowed by the commission in a previous rate case. Rather, an applicant is required to provide sufficient support for its proposed rate of return in each docket. The commission notes that the Consumer Advocate's recommendation of 8.85 percent is: (1) based on the cost of capital analysis performed by an expert cost of capital witness; and (2) consistent with the 8.85 percent rate of return approved by the commission in two relatively recent wastewater utility rate cases.¹²⁴ Accordingly, based on the

¹²¹West Hawaii Sewer's Rebuttal at 12 (citing In re Mosco, Inc., Decision and Order No. 21193, filed on August 3, 2004, in Docket No. 03-0440 (approving the parties' stipulated overall rate of return of 9.83 percent); In re Mauna Lani STP, Inc., Decision and Order No. 20405, filed on August 29, 2003, in Docket No. 02-0392 (approving the parties' stipulated overall rate of return of 10 percent); Decision and Order No. 19223 (approving the parties' stipulated overall rate of return of 10 percent)).

¹²²West Hawaii Sewer's Rebuttal at 12 (emphasis omitted).

¹²³See Decision and Order No. 19223 (approving the parties' stipulated overall rate of return of 10 percent).

¹²⁴In re Puhi Sewer & Water Co., Decision and Order No. 21312, filed on August 17, 2004, in Docket No. 03-0383; and In re Hawaii-American Water Co., Inc., Decision and Order No. 20966, filed on May 6, 2004, in Docket No. 03-0025; see also Hawaii Water Service Company, Inc., Decision and Order No. 21644, filed on February 11, 2005, in Docket No. 03-0275.

foregoing, the commission finds that a rate of return of 8.85 percent is just and reasonable in this case.

XI.

Rate Design

West Hawaii Sewer's current rate design consists of both a monthly standby charge and a consumption charge. For the 2006 test year, West Hawaii Sewer proposes to increase the monthly standby charge to \$38.80 per equivalent residential unit and the consumption charge to \$1.88 per thousand gallons of water consumed.¹²⁵ West Hawaii Sewer used its total revenue requirement proposed for the 2006 test year and proposed a monthly standby charge based on the projected fixed expenses expected to be incurred in the test year.¹²⁶ The proposed charge was based on the estimated number of customers (i.e., 1,377).¹²⁷ The consumption charge is intended to recover the remaining costs and was based on estimated volume of water expected to be consumed by West Hawaii Sewer's customers.¹²⁸ West Hawaii Sewer states that "[g]iven that [West Hawaii Sewer]'s most recent rate case solely increased the monthly standby charge, [West Hawaii Sewer]

¹²⁵ See WHSC Exhibit 16, attached to West Hawaii Sewer's Rebuttal, at 1.

¹²⁶ See WHSC Exhibit 16, attached to West Hawaii Sewer's Rebuttal, at 1; see also WHSC Exhibit 8, attached to West Hawaii Sewer's Application, at 38.

¹²⁷ See WHSC Exhibit 16, attached to West Hawaii Sewer's Rebuttal, at 1.

¹²⁸ See WHSC Exhibit 16, attached to West Hawaii Sewer's Rebuttal, at 1.

believes it is more appropriate this time to allocate the proposed increase between the [monthly standby] charge and [consumption] charge, as set forth on WHSC Exhibit 16."¹²⁹

The Consumer Advocate does not object to the methodology used by West Hawaii Sewer to develop the monthly standby charge and the consumption charge in the instant proceeding.¹³⁰ Notwithstanding this position, the Consumer Advocate proposes to recover the entire increase solely through the monthly standby charge.¹³¹ The Consumer Advocate explains that since West Hawaii Sewer's salaries and wages comprise a significant portion of the Company's total operating expenses, and salaries and wages are considered to be a fixed cost (i.e., the cost will not vary with the units of wastewater treated), "allocating the entire increase to the [monthly standby charge] will provide [West Hawaii Sewer] with a better opportunity to recover the Company's fixed expenses."¹³² The Consumer Advocate states that based upon its calculation of West Hawaii Sewer's revenue requirement, assigning the entire

¹²⁹West Hawaii Sewer's Rebuttal at 15.

¹³⁰See CA-T-1 at 57.

¹³¹See CA-T-1 at 57.

¹³²CA-T-1 at 58.

increase to the monthly standby charge will not result in rate shock for West Hawaii Sewer's customers.¹³³

As discussed above, effective October 15, 2007, the monthly standby charge at present rates will be reduced from \$27.13 per unit to \$19.94 per unit, pursuant to Order No. 23635.¹³⁴ In light of this reduction in the monthly standby charge, the commission approves the Consumer Advocate's proposal to recover the entire increase solely through the monthly standby charge. The commission agrees with the Consumer Advocate that under these circumstances, allocating the entire increase to the monthly standby charge will provide West Hawaii Sewer with the best opportunity to recover the Company's fixed expenses. Furthermore, assigning the entire increase to the monthly standby charge will not result in rate shock for West Hawaii Sewer's customers. Accordingly, the commission approves a monthly standby charge of \$36.73 per equivalent residential unit and a

¹³³ See CA-T-1 at 59-60. The Consumer Advocate's proposed revenue requirement results in an overall increase of 13.6 percent in operating revenues. See CA-T-1 at 59. If the increase is to be recovered entirely through West Hawaii Sewer's monthly standby charge, the monthly charge would increase by 24.5 percent and result in a rate of \$33.78 per month. See CA-T-1 at 59. The Consumer Advocate explains that although the percentage increase appears large, the actual impact is only \$6.65 per month (i.e., \$33.54 - \$27.13) per equivalent unit or approximately \$80 per year. See CA-T-1 at 59-60. The Consumer Advocate further explains that the fact that consumption charges remain constant somewhat mitigates the impact of the monthly standby charge increase. See CA-T-1 at 60. Thus, the Consumer Advocate contends that assigning the entire increase to the monthly standby charge will not result in "rate shock" to West Hawaii Sewer's customers. See CA-T-1 at 60.

¹³⁴ Order No. 23635, at 1.

consumption charge of \$1.33 per thousand gallons of water consumed.

Finally, in order to avoid rate fluctuation and to prevent the need for a refund in this docket, the commission determines that the rates established in this Proposed Decision and Order will be effective on the same date that the rates established in Order No. 23635 are effective (i.e., October 15, 2007, or as otherwise ordered by the commission).

XII.

West Hawaii Sewer's Tariff Rules

The Consumer Advocate recommends the following changes to West Hawaii Sewer's tariff rules:

1. Add a provision that sets forth who is responsible for equipment on customer's premises:

COMPANY'S EQUIPMENT ON CUSTOMER'S PREMISES

All equipment belonging to the Company and installed upon the Customer's premises for measuring, testing, checking or any other purpose shall continue to be the property of the Company, and may be repaired, replaced or removed by the Company at any time without the consent of the Customer. The Customer shall exercise reasonable care to prevent damage to equipment of the Company upon the Customer's premises and shall not interfere with the operation of same.¹³⁵

2. Add a provision that sets forth the customer responsibility:

CUSTOMER RESPONSIBILITY

The Customer shall, at Customer's risk and expense, furnish, install, and keep in good and safe condition all equipment that may be

¹³⁵CA-T-1 at 68.

required for utilizing the sewer service supplied by the Company.¹³⁶

In rebuttal, West Hawaii Sewer does not discuss or object to the Consumer Advocate's recommended changes to West Hawaii Sewer's tariff rules. The proposed revisions are consistent with prior commission rulings, explain certain terms, and clarify West Hawaii Sewer's existing tariff provisions. Accordingly, the commission finds the proposed revisions to West Hawaii Sewer's tariff rules to be reasonable.

XIII.

Ultimate Findings and Conclusions

The commission finds and concludes:

1. The total test year customer count of 1,377 test year customers is reasonable.
2. The operating revenues, operating expenses, and operating income for the 2006 calendar test year, as set forth in Exhibit A, attached, are reasonable.

¹³⁶CA-T-1 at 69.

3. West Hawaii Sewer is entitled to an increase in revenues of \$277,439, or 42.1 percent over revenues at present rates.¹³⁷

4. The 50-year amortization period for CIAC is reasonable.

5. The computation of working cash using the 1/12th factor methodology is reasonable.

6. The rate of return of 8.85 percent is just and reasonable in this case.

7. The allocation of the entire rate increase to the monthly standby charge is reasonable.

8. The Parties' agreed-upon tariff revisions, as set forth in Section XII, above, are reasonable.

¹³⁷In Decision and Order No. 13762, filed on February 10, 1995, in Docket No. 7764, the commission stated that it is precluded from considering a rate increase in excess of the total amount requested in a utility company's application. See Decision and Order No. 13762, filed on February 10, 1995, in Docket No. 7764 ("As a result of notices to the public, the total amount HELCO may receive is restricted to the total amount requested in its application."). In its Statement of Probable Entitlement, the Consumer Advocate cautioned that "[t]he [c]ommission is prohibited from authorizing a change in revenue that exceeds the change set forth in [West Hawaii Sewer]'s application and notice (i.e., \$353,669)." Consumer Advocate's Statement of Probable Entitlement at 5. However, in the present case, the increase in revenues necessary to generate the test year revenue requirement in the Application is less than the overall increase set forth in West Hawaii Sewer's notice.

XIV.

Acceptance or Non-Acceptance

Consistent with HRS § 269-16(f)(3), by October 15, 2007, each of the Parties shall notify the commission as to whether it:¹³⁸

1. Accepts, in toto, the Proposed Decision and Order. If the Parties accept the Proposed Decision and Order, they "shall not be entitled to a contested case hearing, and [HRS] section 269-15.5 shall not apply."¹³⁹

2. Does not accept, in whole or in part, the Proposed Decision and Order. If so, said Party shall give notice of its objection or non-acceptance and set forth the basis for its objection or non-acceptance.¹⁴⁰ Moreover, the Party's objection or non-acceptance shall be based on the evidence and information contained in the current docket record, i.e., the materials available to the commission at the time of its issuance of the Proposed Decision and Order.

Any Party that does not accept the Proposed Decision and Order "shall be entitled to a contested case hearing; provided that the [P]arties to the proceeding may waive the contested case hearing."¹⁴¹

¹³⁸This deadline date is consistent with the deadline to move for reconsideration of a commission decision or order. See HAR §§ 6-61-21(e) (two (2) days added to the prescribed period for service by mail), 6-61-22 (computation of time), and 6-61-137 (ten (10) day deadline, motion for reconsideration).

¹³⁹HRS § 269-16(f)(3).

¹⁴⁰See HRS § 269-16(f)(3).

¹⁴¹See HRS § 269-16(f)(3).

In the event that one (1) or both of the Parties do not accept, in whole or in part, the Proposed Decision and Order, the commission advises that it may review de novo the entire docket and all issues therein, including the Parties' areas of agreement.

XV.

Orders

THE COMMISSION ORDERS:

1. West Hawaii Sewer may increase its rates to produce a total annual revenue increase of \$277,439, or 42.1 percent, as shown on Exhibit A, attached, representing an increase in West Hawaii Sewer's revenue requirement to \$937,052.

2. No later than October 15, 2007, West Hawaii Sewer shall file its revised tariff sheets and rate schedules for the commission's review and approval, which implement the tariff changes and increases in rates and charges authorized by this Proposed Decision and Order, with copies served upon the Consumer Advocate. West Hawaii Sewer's tariff changes and increases in its rates and charges shall take effect upon the commission's review and approval of said filing.

3. By October 15, 2007, each of the Parties shall notify the commission as to whether it accepts, in toto, or does not accept, in whole or in part, this Proposed Decision and Order, consistent with Section XIV, above. A Party's objection or non-acceptance shall be based on the evidence and information contained in the current docket record.

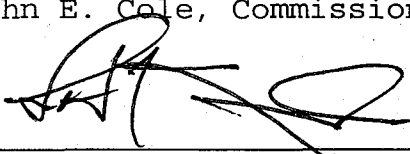
DONE at Honolulu, Hawaii

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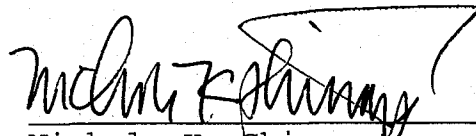
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By (EXCUSED)
John E. Cole, Commissioner

By 
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:


Nichole K. Shimamoto
Commission Counsel

05-0329.sl

DOCKET NO. 05-0329
WEST HAWAII SEWER COMPANY
REVENUE REQUIREMENTS
TEST YEAR ENDED DECEMBER 31, 2006

	Present Rates	Additional Amount	Approved Rates
REVENUES			
Residential	\$ 82,610	38,281	\$ 120,891
Multi Family	512,075	226,261	738,336
Commercial	28,704	8,664	37,368
Other (including hotels)	36,224	4,232	40,456
Total Operating Revenues	<u>\$ 659,613</u>	<u>\$ 277,439</u>	<u>\$ 937,052</u>
OPERATING & MAINT. EXPENSES			
Salaries and Wages - Employees	\$ 304,306		\$ 304,306
Purchased Power	25,020		25,020
Fuel for Power Production	22,572		22,572
Chemicals	14,592		14,592
Material & Supplies	59,544		59,544
Contractual Services - Other	18,496		18,496
Rental of Equipment	29,136		29,136
Administrative & General Allocation	207,255		207,255
Total O & M Expenses	<u>\$ 680,921</u>	<u>-</u>	<u>\$ 680,921</u>
Depreciation	\$ 64,867	\$ -	\$ 64,867
TOTIT	42,116	17,714	59,831
Income Taxes	(49,068)	99,337	50,269
Net Operating Expense	<u>\$ 57,916</u>	<u>\$ 117,051</u>	<u>\$ 174,967</u>
Net Operating Income (Loss)	<u>\$ (79,224)</u>	<u>\$ 160,387</u>	<u>\$ 81,164</u>
Average Rate Base	<u>\$ 917,410</u>		<u>\$ 917,410</u>
Return on Rate Base	<u>-8.64%</u>		<u>8.85%</u>

DOCKET NO. 05-0329
WEST HAWAII SEWER COMPANY
REVENUE TAXES
TEST YEAR ENDED DECEMBER 31, 2006

	<u>Tax Rates</u>	<u>Present Rates</u>	<u>Adjustments</u>	<u>Approved Rates</u>
Total Operating Revenues		<u>\$ 659,613</u>	<u>\$ 277,439</u>	<u>\$ 937,052</u>
Public Company Service Tax	5.885%	38,818	16,327	55,145
Public Utility Fee	0.500%	<u>3,298</u>	<u>1,387</u>	<u>4,685</u>
Total Revenue Taxes	6.385%	<u>\$ 42,116</u>	<u>\$ 17,714</u>	<u>\$ 59,831</u>

DOCKET NO. 05-0329
WEST HAWAII SEWER COMPANY
INCOME TAX EXPENSE
TEST YEAR ENDED DECEMBER 31, 2006

	<u>Present Rates</u>	<u>Approved Rates</u>
REVENUES		
Residential	\$ 82,610	\$ 120,891
Multi Family	512,075	738,336
Commercial	28,704	37,368
Other (including hotels)	36,224	40,456
Total Operating Revenues	<u>659,613</u>	<u>937,052</u>
OPERATING & MAINT. EXPENSES		
Salaries and Wages - Employees	304,306	304,306
Purchased Power	25,020	25,020
Fuel for Power Production	22,572	22,572
Chemicals	14,592	14,592
Material & Supplies	59,544	59,544
Contractual Services - Other	18,496	18,496
Rental of Equipment	29,136	29,136
Administrative & General Allocation	207,255	207,255
Total O & M Expenses	<u>680,921</u>	<u>680,921</u>
Depreciation	64,867	64,867
TOTIT	42,116	59,831
Net Operating Expense	<u>106,983</u>	<u>124,698</u>
Taxable Income	(128,291)	131,433
Income Tax Provision		
Effective tax rate of	38.2471% (49,068)	50,269
Income Tax Expense	<u>\$ (49,068)</u>	<u>\$ 50,269</u>

**DOCKET NO. 05-0329
WEST HAWAII SEWER COMPANY
AVERAGE RATE BASE
TEST YEAR ENDED DECEMBER 31, 2006**

Description	At 12/31/2005	At 12/31/2006	Average
Plant in Service	\$ 3,860,570	\$ 3,915,570	
Accum. Depreciation	1,480,044	1,589,226	
Net-Plant-in-Service	<u>2,380,526</u>	<u>2,326,344</u>	\$ 2,353,435
Deduct:			
CIAC	2,209,704	2,209,707	
Accum. Amortization of CIAC	(843,703)	(888,018)	
Deferred Income Tax	62,111	85,423	
Deferred Hawaii Capital Goods Credit	72,945	69,598	
Subtotal	<u>1,501,057</u>	<u>1,476,710</u>	1,488,884
Average			864,552
Working Cash at Present Rates			<u>52,858</u>
Rate Base at Present and Proposed Rates			<u><u>\$ 917,410</u></u>

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Proposed Decision and Order No. 23688 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

CATHERINE P. AWAKUNI
EXECUTIVE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P. O. Box 541
Honolulu, HI 96809

BRUCE MOORE
DEVELOPMENT MANAGER
WEST HAWAII SEWER COMPANY
150 Waikoloa Beach Drive
Waikoloa, HI 96738-5703

BRUCE D. VOSS, ESQ.
LORI N. TANIGAWA, ESQ.
BAYS, DEEVER, LUNG, ROSE & BABA
Alii Place, 16th Floor
1099 Alakea Street
Honolulu, HI 96813

Attorneys for WAIKOLOA SANITARY SEWER COMPANY, INC., dba
WEST HAWAII SEWER COMPANY



for Karen Higashi

DATED: OCT - 1 2007